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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91200842
Party	Defendant Marvel Characters, Inc.
Correspondence Address	ELI BARD MARVEL ENTERTAINMENT LLC 135 W 50TH ST FL 7 NEW YORK, NY 10020-1201 UNITED STATES aopp@yeellp.com, mdonovan@yeellp.com
Submission	Answer
Filer's Name	Amy Opp Gaven
Filer's e-mail	aopp@yeellp.com, slockridge@yeellp.com, mdonovan@yeellp.com
Signature	/Amy Opp Gaven/
Date	12/19/2011
Attachments	Answer.pdf (3 pages)(243176 bytes)

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

**IN THE MATTER OF TRADEMARK APPLICATION
SERIAL NO. 85/225656**

**PUBLISHED IN THE OFFICIAL GAZETTE ON
MAY 31, 2011**

MARK: MARVEL HEROES

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	:
HERO NUTRITIONAL PRODUCTS, LLC	:
	:
Opposer,	:
	:
v.	:
	:
MARVEL CHARACTERS, INC.,	:
	:
Applicant.	:
	:
-----X	

Opposition No. 91200842

ANSWER AND AFFIRMATIVE DEFENSES

Applicant Marvel Characters, Inc. (“Applicant”), by its attorneys Donovan & Yee LLP, hereby answers the Notice of Opposition (“Notice”) filed by Hero Nutritional Products, LLC (“Opposer”) and asserts its Affirmative Defenses as follows:

1. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 1 (a), (b), or (c), and therefore, denies same. Applicant admits that there is an attachment to the Notice.
2. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 2, and therefore, denies same.

3. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 3, and therefore, denies same. Applicant admits that the goods covered by Serial No. 85225656 and Opposer's goods are in the same class.

AFFIRMATIVE DEFENSES

4. There is no likelihood of confusion between Applicant's mark and Opposer's marks.
5. Opposer has failed to state a claim upon which relief can be granted.
6. Opposer's claims are barred by the doctrine of laches, acquiescence and/or equitable estoppel.

WHEREFORE, Applicant respectfully requests that this Opposition be dismissed, and Applicant's mark be permitted to proceed to registration.

Dated: December 19, 2011
New York, New York

Respectfully submitted,

DONOVAN & YEE LLP

By: _____


Mary A. Donovan, Esq.
Amy Opp Haven, Esq.

161 Avenue of the Americas
Suite 1201
New York, NY 10013
(212) 226-7700
(212) 226-1995 (fax)
Attorneys for Applicant

CERTIFICATE OF SERVICE

I, Amy Opp Gaven, hereby certify that a true and correct copy of the foregoing ANSWER AND AFFIRMATIVE DEFENSES is being served upon Opposer, on this 19th day of December, 2011, via First Class mail, postage prepaid to:

Paul N. Tauger, Esq.
Hero Nutritional Products, LLC
991 Calle Negocio
San Clemente, CA 92673


AMY OPP GAVEN